

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF  
NEW YORK

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In re

Chapter 13

Case No.: 814-72963-reg

FEIGE ZARETSKY AKA  
FEIGE SARA ZARETSKY

**MOTION TO RECONSIDER  
ORDER OF DISMISSAL**

Debtor,

.....X

FEIGE ZARETSKY, the debtor respectfully moves the Court, pursuant to F.R.C.P. rule 59, and Local Rule 6.3 and F.R.B.P. 9023, to reconsider the order and ruling dated September 22, 2014 dismissing the chapter 13.

1. On August 14, 2014, the chapter 13 bankruptcy trustee filed a motion to dismiss in the instant case, attached herewith as exhibit (A).

2. Thereafter on September 2, 2014, debtor herein filed an opposition to said motion to dismiss, attached herewith as exhibit (B).

3. A hearing was held by the Court on September 4, 2014, at which time the Court stated that the instant chapter 13 case is being dismissed. An order of dismissal was subsequently entered on September 22.

4. The Court overlooked established precedent by both the United States Supreme Court as well as the Second Circuit Court of Appeals, both of which were cited in debtor's opposition papers, in order to avoid a clear manifest error of law and fact, debtor respectfully requests the Court to reconsider the arguments and governing case law cited by the debtor.

5. From the longtime established case law of the higher Courts some of which were cited in Debtor's papers, it is clear that §109 eligibility has been interpreted by the higher courts to include only debts which were clearly enforceable at the time of filing the petition, and any debt that was not enforceable at such time, cannot be deemed a valid debt for purposes of §109, clearly this is not the case in the instant petition, where all debts above the §109 ceiling were unenforceable at the time of filing the petition.

6. Debtor has also argued on the papers on the other grounds briefly raised by the trustee's motion, albeit the motion has not explained much if anything regarding those grounds, the debtor has attempted to oppose and argue against those as best as possible, however none of those were apparently considered by the Court.

7. Additionally the Court mentioned briefly during the hearing about the pending State Court appeals action/s, however the herein debtor did not argue that a pending appeals renders a debt or fixed judgment unenforceable, rather a debt which is stayed is clearly rendered unenforceable against the debtor or his/her property until the stay is removed, the debtor only mentioned the pending state appeals as a side point and to illustrate that everything was indeed stayed as evident from the stayed appeals actions.

W H E R E F O R E, Debtor prays that this Honorable Court reconsider it's prior order of dismissal of September 22, 2014, and for such other and different relief this Court deems proper and just.

DATED: BROOKLYN, NEW YORK  
OCTOBER 1, 2014

  
\_\_\_\_\_  
FEIGE ZARETSKY

**CERTIFICATE OF SERVICE**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

.....X

In re

Chapter 13

Case No.: 814-72963-reg

FEIGE ZARETSKY AKA  
FEIGE SARA ZARETSKY

Debtor,

.....X

The undersigned Aaron Berlin, being duly affirmed deposes and states under penalties of perjury as follows: that on October 1, 2014 \_\_\_\_\_

A copy of the annexed papers motion to reconsider the order of dismissal Chapter 13 plan was served via fax upon

MICHAEL J. MACCO Esq.,  
Chapter 13 Trustee  
135 Pinelawn Road, Suite 120 South  
Melville, New York 11747  
Fax: 631-549-7845

  
\_\_\_\_\_  
Aaron Berlin